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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

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10 UNITED STATES OF AMERICA,) CASE NO. 02:05-cr-46
11 Plaintiff,)
12 v.) STIPULATION AND ORDER TO AMEND
13 KIM J. ANDERSON,) JUDGMENT
14 Defendant.)
15 _____) COURT: Hon. Gregory G. Hollows

16 Background

17 On February 1, 2005, this Court entered judgment in this matter
18 as follows: one year of court probation, a fine of \$500, a special
19 assessment of \$30, and restitution of \$1,700. Mr. Anderson
20 contested the legality of the restitution amount imposed by taking
21 an appeal to the district court and ultimately to the United States
22 Court of Appeals for the Ninth Circuit.

23 On May 10, 2005, the district court granted Mr. Anderson's
24 request for a stay of execution. When the district court affirmed
25 this Court's conviction and sentence on January 5, 2006, it also
26 lifted the stay of execution and ordered payment of the fine,
27 special assessment, and restitution by June 5, 2006. Although he
28 appealed the restitution order to the Ninth Circuit, Mr. Anderson

1 has fully paid the fine and special assessment. His one-year period
2 of court probation has expired.

3 After oral argument, the Ninth Circuit referred the matter to
4 the Circuit Mediator's Office. Through the mediation process, the
5 parties reached a Settlement Agreement on January 26, 2007, attached
6 hereto as Attachment A. On April 15, 2007, the Ninth Circuit
7 ordered this case remanded to the district court for consideration,
8 approval and/or implementation of the settlement agreement. On May
9 24, 2007, the district court further remanded this matter to the
10 Magistrate Judge and directed the parties to file any motions and/or
11 requests with this Court.

Stipulation

13 The parties stipulate that this Court may enter an order
14 modifying the judgment entered February 1, 2005, as well as an
15 amended judgment, reflecting that the amount of restitution is
16 reduced from \$1,700.00 to \$714.09 plus interest (on the lesser
17 amount) at the rate of 7% per annum which began accruing on January
18 26, 2007.

19 Pursuant to Rule 43(b)(2) of the Federal Rules of Criminal
20 Procedure, Mr. Anderson consents to the Court modifying the
21 restitution amount and requests that the Court do so in his absence.

22 || DATED: September 27, 2007

/s/ Kim J. Anderson
KIM J. ANDERSON, Defendant

25 | DATED: October 9, 2007

DANIEL J. BRODERICK
Federal Defender

by

/s/ Ann C. McClintock
ANN C. McCLINTOCK
Assistant Federal Defender
Counsel for Mr. Anderson

1 So stipulated.

2 DATED: October 9, 2007

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McGREGOR W. SCOTT
United States Attorney

4 by /s/ Samantha S. Spangler
5 Samantha S. Spangler
Assistant U.S. Attorney

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7 Order

8 Good cause appearing, the sentence imposed on January 24, 2005,
9 is MODIFIED to reduce the restitution amount, to impose interest,
10 and to allow monthly payments until the restitution is paid. The
11 new restitution order is as follows:

12 The defendant shall pay restitution of \$714.09 plus interest at
13 the rate of 7% per annum, which began accruing on January 26, 2007.
14 Restitution shall be paid in monthly installments to:

15 Humboldt-Toiyabe National Forest
16 Attn: Kathy Nicholas
17 1200 Franklin Way
Sparks, NV 89431

18 IT IS SO ORDERED.

19 DATED: 10/16/07

20 /s/ Gregory G. Hollows
GREGORY G. HOLLOWES
United States Magistrate Judge

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